

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

REVIEW OF FEDERAL COMMUNICATIONS)	
COMMISSION'S TRIENNIAL REVIEW ORDER)	CASE NO.
REGARDING UNBUNDLING REQUIREMENTS)	2003-00379
FOR INDIVIDUAL NETWORK ELEMENTS)	

CONFIDENTIALITY PETITION
PURSUANT TO 807 KAR 5:001 SECTION 7

Petitioner, BellSouth Telecommunications, Inc. ("BellSouth"), hereby moves the Public Service Commission of Kentucky (the "Commission"), pursuant to KRS 61.878 and KAR 5:001, Section 7, to classify as confidential certain Responses of BellSouth to the Data Requests of Commission Staff to Incumbent Local Exchange Carriers dated October 10, 2003, specifically Attachments to BellSouth's Response to 2 and a portion of BellSouth's Response to Item 85 of AT&T First Interrogatories dated October 10, 2003.

The Kentucky Open Records Act exempts certain commercial information from the public disclosure requirements of the Act. KRS 61.878(1)(c)1. To qualify for this commercial information exemption and, therefore, protect the information as confidential, a party must establish that disclosure of the commercial information would permit an unfair advantage to competitors and the parties seeking confidentiality if openly discussed. KRS 61.878(1)(c)1; 807 KAR 5:001, Section 7. The Commission has taken the position that the statute and rules require the party to demonstrate actual competition and the likelihood of competitive injury if the information is disclosed.

The proprietary material contains information relating to BellSouth's revenues. The attachments to Staff Request Item No. 2 contain information relating to annual revenues for certain accounts and certain markets. A portion of BellSouth's Response to Item No. 85 of AT&T First Interrogatories contains the total physical and virtual collocation revenue for BellSouth's nine-state region for the 1999-2002 period.

Revenue information is commercially sensitive information and BellSouth would suffer competitive harm if the commercial information it seeks to protect were disclosed. The information responsive to Staff Request Item No. 2 could provide a competitor with market size and associated revenue for the market segments identified. This information would be useful to BellSouth's competitors in establishing marketing plans and, therefore, pose competitive harm to BellSouth if such information were disclosed. BellSouth's competitors include alternate access providers, resellers and interexchange carriers. The Commission has approved interconnection and resale agreements between BellSouth and numerous other telephone carriers. Disclosure of the information would give BellSouth's competitors an unfair business advantage over BellSouth and could be used to the detriment of BellSouth.


The Commission also should grant confidential treatment to the information so designated for the following reasons:

- (1) The information for which BellSouth is requesting confidential treatment is not known outside of BellSouth;
- (2) The information is not disseminated within BellSouth and is known only by those of BellSouth's employees who have a legitimate business need to know and act upon the information;

- (3) BellSouth seeks to preserve the confidentiality of this information through all appropriate means, including the maintenance of appropriate security at its offices; and
- (4) By granting BellSouth's petition, there would be no damage to any public interest.

For these reasons, the Commission should grant BellSouth's request for confidential treatment of BellSouth's Responses or portions of BellSouth's Responses as set out herein.

Respectfully submitted,


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